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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/686,967

10/16/2003

Channing K. Barringer

03292.101810.

8084

66569 7590 07/20/2009

FITZPATRICK CELLA (AMEX)
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

LONG, FONYA M

ART UNIT

PAPER NUMBER

3689

MAIL DATE

DELIVERY MODE

07/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/686,967	Applicant(s) BARRINGER ET AL.	
	Examiner FONYA LONG	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a second Non-Final Rejection in response to communications received on January 14, 2009. Claim 1 has been amended. Claims 6-14 have been cancelled. Claims 1-5 and 15 are currently pending and have been addressed below.

Response to Amendment

1. Applicant's amendments to the claims are sufficient to overcome the 112 2nd rejection set forth in the previous office action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Kohorn (5,034,807).

As per Claim 1, Von Kohorn discloses a system including:

a media source configured to broadcast via a first marketing channel a show (Col. 4, Lines 56-62; Col. 8, Lines 1-23, discloses providing for transmission of the television program to a remote audience);

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an interface configured to accept from a participant input including contact information of said participant, a response to an inquiry, and a proposed solution incorporating a product of a sponsor and corresponding to said predetermined issue related to said business operation (Abstract, via a plurality of remote receiving stations wherein one or more members of a remote audience has the opportunity to respond to a situation presentation in the television program by entering a response on a keyboard. Col. 41, Line 63-Col. 42, Line 12, discloses the responses relating to merchandise being advertised (i.e. product of a sponsor));

a database constructed to store said contact information, said response, and said proposed solution from said participant and link said response and said proposed solution to a plurality of responses and a plurality of proposed solutions, respectively, from a plurality of other participants based on at least one of said response to said inquiry and said proposed solution (Abstract, via a memory response to the instructional signal for storing acceptable responses, and a comparison circuit for comparing responses entered at the keyboard with those stored in the memory. Col. 15, Lines 5-23, via scoring the response);

a processor constructed to select at least one proposed solution stored on said database and incorporate said at least one proposed solution into said storyline (Col. 15, Lines 5-23, via a machine-readable means too facilitate a reading of the score and/or response (i.e. proposed solution) by the host on the television show (i.e. incorporated into the storyline)).

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Examiner asserts that the type of show being broadcasted is considered non-functional descriptive material. The type of show being broadcast does not change the system as described in Claim 1. Examiner asserts that Von Kohorn is fully capable of incorporating any television show have any storyline.

Examiner also asserts that the type of proposed solution being entered and stored in the system is considered non-functional descriptive material. The information provided in the proposed solution does not change the function of the system claimed.

As per Claim 2, Von Kohorn discloses wherein said interface is communicatively coupled to a network for facilitating communication between said participant and the plurality of other participants (Col. 19, Lines 8-19, via the system of the invention permits participation wherein members in the external audience are to participate with members of the studio audience in situations requiring participation).

As per Claims 3 and 4, Von Kohorn discloses the claimed invention as applied to Claim 1, above. However, Von Kohorn fails to explicitly disclose the product including financial assistance products, a transaction card, a financial service, and a loan service.

Examiner asserts the type of product being incorporated in a proposed solution is considered non-functional descriptive material. The type of product does not change the function of inputting and storing a proposed solution and incorporating a proposed solution in a storyline.

As per Claim 5, Von Kohorn discloses the claimed invention as applied to Claim 1, above. However, Von Kohorn fails to explicitly disclose said show being a reality show.

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Examiner asserts the type of show being broadcasted is considered non-functional descriptive material. The fact that the show is a reality show does not change the function of the claimed system. Examiner asserts Von Kohorn is fully capable of being performed utilizing a reality television show.

As per Claim 15, Von Kohorn discloses the claimed invention as applied to Claim 1, above. However, Von Kohorn fails to explicitly disclose the owner as a participant.

Examiner asserts the type of participants providing a response and a proposed solution is considered non-functional descriptive material. The type of participant does not change the function of inputting and storing a response and a proposed solution provided by a participant. Von Kohorn is fully capable of utilizing an type of person as a participant.

Response to Arguments

4. Applicant's arguments, see "Remarks", filed January 14, 2009, with respect to the rejection(s) of claim(s) 1 under 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Von Kohorn (5,034,807).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Wolan (US 2004/0193483) discloses a method and system for advertising products.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FONYA LONG whose telephone number is (571)270-5096. The examiner can normally be reached on Mon-Thurs. 7:30am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. L./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689